

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

UNITED STATES OF AMERICA	§	
	§	No. 6:17CR39
v.	§	
	§	
EDUARDO PINEDA (01)	§	

**ELEMENTS OF THE OFFENSE**

COMES NOW, the United States of America, by and through the United States Attorney for the Eastern District of Texas, and files this pleading summarizing the elements of the offenses to which the defendant intends to enter pleas of guilty to Counts 1 - 3 of the information:

Count 1

Title 21, United States Code, Section 841(a)(1), makes it a crime for anyone to knowingly or intentionally to manufacture or to possess a controlled substance with intent to manufacture or distribute it.

To establish that the defendant is guilty of Manufacture and Possession with Intent to Manufacture and Distribute 50 or more Marihuana Plants, the government must prove the following beyond a reasonable doubt:

*First:* That the defendant knowingly manufactured a controlled substance;

*Second:* That the substance was in fact marihuana; and

*Third:* That the quantity of the substance was at least 50 marihuana plants.

Or:

*First:* That the defendant knowingly possessed a controlled substance;

*Second:* That the substance was in fact marihuana;

*Third:* That the defendant possessed the substance with the intent to manufacture or distribute it; and

*Fourth:* That the quantity of the substance was at least 50 marihuana plants.

Count 2

Title 21, United States Code, Section 856(a)(1), makes it a crime for anyone knowingly to use or maintain any place for the purpose of manufacturing or distributing any controlled substance.

To establish that the defendant is guilty of Maintaining a Drug-Involved Premises, the government must prove the following beyond a reasonable doubt:

*First:* That the defendant unlawfully and knowingly used or maintained a place for the purpose of manufacturing or distributing a controlled substance.

Count 3

Title 18, United States Code, Section 924(c)(1), makes it a crime for anyone to knowingly use or carry a firearm during and in relation to a drug trafficking crime or to possess a firearm in furtherance of such a crime.

To establish that the defendant is guilty of Possession of a Firearm in Furtherance of a Drug Trafficking Crime, the government must prove the following beyond a reasonable doubt:

*First:* That the defendant committed the crime alleged in Count 2. Count 2 is a drug trafficking crime; and

*Second:* That the defendant knowingly possessed a firearm in furtherance of the defendant's commission of the crime charged in Count 2.

Respectfully submitted,

BRIT FEATHERSTON  
ACTING U.S. ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Elements of the Offense was served on counsel of record for defendant via the court's CM/ECF on this the 21st day of November, 2017.

/s/ Nathaniel C. Kummerfeld  
Nathaniel C. Kummerfeld